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**FISCAL IMPACT STATEMENT**

**LS 6619**

**BILL NUMBER:** HB 1096

**NOTE PREPARED:** Feb 17, 2011

**BILL AMENDED:** Feb 15, 2011

**SUBJECT:** Fire protection territories.

**FIRST AUTHOR:** Rep. Cherry

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:**      **GENERAL**  
                                 **DEDICATED**  
                                 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Property Tax Levy Limit:* This bill provides that for property taxes first due and payable after 2011, the total amount that may be levied in a civil taxing unit in the ensuing calendar year to support a fire protection territory may not exceed: (1) the amount levied in the civil taxing unit to support the fire protection territory in the current calendar year; multiplied by (2) the assessed value growth quotient.

The bill also provides that for property taxes first due and payable after 2011, in the first year in which a civil taxing unit levies a property tax to support a fire protection territory, the total amount that may be levied in that year in the civil taxing unit to support the fire protection territory may not exceed the lesser of: (1) the amount specified by the legislative body of the civil taxing unit in the hearing held before adoption of the ordinance or resolution to establish the fire protection territory; or (2) the amount levied for fire protection services in the year immediately preceding the year in which the unit first imposes property taxes to support the fire protection territory, multiplied by the assessed value growth quotient.

*Voting:* The bill specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of another unit that: (1) is a participating unit in the fire protection territory; or (2) is proposing to become a participating unit in the fire protection territory.

*Establishing a fire protection territory:* The bill provides that a fire protection territory may not be established after December 31, 2011, unless the fire protection territory is approved by the voters of each of the participating units in a public question. It provides that before an ordinance or resolution to establish a fire protection territory is adopted by the legislative body of a unit, the legislative body must hold a separate public hearing at which the legislative body makes available to the public specified information concerning

the fiscal impact of the proposed fire protection territory.

*Operating Balance:* The bill provides that the provider unit, with the approval of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services with the territory, plus a reasonable operating expense. (Current law provides that the provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services with the territory, plus a reasonable operating expense, not to exceed 20% of the budgeted expenses.)

It removes language that, in the case the amount levied in a particular year is insufficient to cover costs, the levy in the following year shall be increased by the amount needed and the provider unit is entitled to transfer the amount transferred from the fund as reimbursement to the provider unit.

*Tax rates:* The bill requires the Department of Local Government Finance to review the tax rates in existing fire protection territories and reconsider whether different rates should apply for the participating units.

**Effective Date:** July 1, 2011; January 1, 2012.

**Explanation of State Expenditures:** (Revised) *Tax rates:* The bill directs the Department of Local Government Finance (DLGF) to determine whether different tax rates should be applied for the participating units in existing fire protection territories. The Department could accomplish this task during the budget approval process. Please note that for pay 2011, the budget, tax levies and tax rates of 86 counties have already been approved so that a review of the tax rates for any of these counties would create an additional workload for the agency.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) *Establishing a fire protection territory:* Under current law, the legislative body of each taxing unit desiring to participate in a FPT must hold a public hearing to receive public comment on the proposed ordinance or resolution. After 2011, this bill directs the legislative body to hold two hearings before the resolution or ordinance can be adopted.

At the first hearing, the legislative body must make available to the public pertinent information on the proposed ordinance or resolution. This information must include the property tax levy, the property tax rate, the budget to be imposed during the first year of operation for each unit participating in the FPT, the estimated effect of the reorganization on future tax rates, levies, and annual debt service, a description of planned services and staffing levels to be provided, and a description of any capital improvements to be provided in the proposed FPT. At the second hearing, the legislative body would receive public comment on the proposed ordinance or resolution.

Taxing units desiring to establish a fire protection territory (FPT) would incur costs of compiling data on proposed budgets, property taxes, levies, personnel, and infrastructure costs for their constituents. The taxing units would also incur additional administrative costs of scheduling a second public hearing.

**Explanation of Local Revenues:** (Revised) *Summary:*

(1)*Property Tax Levy Limit:* The fiscal impact would depend on whether the levy under this provision would be less than that determined by the DLGF.

(2) *Operating Balance:* Removing the restrictions on the operating balance implies that the providing unit could increase the balance by more than 20% limit of budgeted expenses. The potentially larger balance would give the providing unit greater flexibility in meeting its requirements. However, this is tempered by the fact that the budget submitted by the providing unit would have to be approved by the participating units under this bill. This would impact the size of the operating balance.

Under this bill, the provider unit would no longer have the flexibility of spending more than the operating balance as it would not be entitled to be reimbursed by increasing the following year's levy. This may result in denial of some services for the participating units.

(3) *Tax rates:* Under this provision the property tax levy for a participating unit would increase or decrease relative to that of neighboring units. Under a uniform tax rate structure, the cost of providing services for a participating unit could be less than its tax levy. As a result, this unit would, in effect, be subsidizing neighboring units. This provision could bring the tax levies of the units more in line with their cost of service.

(4) *Voting:* The fiscal impact would depend on whether the member's association with either of these units would influence how the member would vote, and if that vote would be critical to the outcome of the proposed ordinance or resolution

*Property Tax Levy Limit:* Under current law, the legislative bodies of at least two contiguous taxing units may establish a fire protection territory (FPT). All units involved in the FPT are participating units, one of which is the provider unit. During the first three years of the territory's existence, the participating units each impose a property tax levy to support the FPT. After three years, the provider unit imposes a levy and tax rate upon all of the property in the FPT and the other participating units' levies for fire protection are eliminated.

New participating units must submit their first-year proposed budget, levy, and tax rate for the FPT to the Department of Local Government Finance (DLGF). The initial levy set by the DLGF is the basis for future levy growth under the AVGQ growth limits, except that the DLGF may reduce the base by all or a part of the initial levy that was used to establish an operating balance. The operating balance may not exceed 20% of budgeted expenses. A civil taxing unit may petition the DLGF for an increase in its maximum levy to meet its obligations to the FPT. The DLGF may grant increases over a three-year period, allowing for a reasonable operating balance, with no specific limit other than the current 20% limit.

Under this bill, for property taxes payable in 2012 and after, the property tax levies of new participating units for fire protection services would no longer be subject to DLGF review. Instead, the maximum increase in the property tax levy that a taxing unit may impose in the ensuing calendar year to support an FPT is limited to the AVGQ. Additionally, the first-year levy of a participating unit cannot be greater than the lesser of the amount levied by the taxing unit for fire protection services in the previous year adjusted by the AVGQ, or the amount specified by the legislative body in a resolution or ordinance.

(Revised) *Operating Balance:* Under current law, the provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services with the territory, plus a reasonable operating expense, not to exceed 20% of the budgeted expenses. If the money levied in a particular year is insufficient to cover the

costs incurred in providing fire protection services within the territory, the provider unit may increase the levy in the following year in order to be reimbursed for the additional expenses.

Under this bill, participating units must approve the budget prepared by the provider unit. Additionally, the 20% percent limit on the operating balance has been rescinded. Also, the current statute specifically permitting the providing unit to be reimbursed for additional expenses has been deleted.

*Voting:* Under this bill, a member of a legislative body would have to abstain from voting on a proposed ordinance or resolution authorizing the taxing unit to become a participating unit in a FPT if the member is also an employee of another participating unit in the FPT, or a taxing unit proposing to become a participating unit in the FPT.

**State Agencies Affected:** DLGF

**Local Agencies Affected:** Fire Protection Territories; Taxing Units.

**Information Sources:**

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